

SENATE BILL 951

E1, E2

0lr0588

By: **Senators Benson and Hettleman**

Introduced and read first time: February 3, 2020

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law – Felony First–Degree Murder – Limitation and Resentencing**
3 **Procedure**

4 FOR the purpose of altering the provisions relating to murder in the first and second
5 degrees; authorizing certain persons to petition a court to be resentenced under
6 certain circumstances; authorizing a court to vacate a certain conviction and
7 sentence and resentence a person under the penalties provided for second–degree
8 murder; prohibiting a court from increasing the sentences of certain persons; and
9 generally relating to felony first–degree murder.

10 BY repealing and reenacting, with amendments,
11 Article – Criminal Law
12 Section 2–201 and 2–204
13 Annotated Code of Maryland
14 (2012 Replacement Volume and 2019 Supplement)

15 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
16 That the Laws of Maryland read as follows:

17 **Article – Criminal Law**

18 2–201.

19 (a) A murder is in the first degree if it is:

20 (1) a deliberate, premeditated, and willful killing;

21 (2) committed by lying in wait; **OR**

22 (3) committed by poison[; or

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(4) committed in the perpetration of or an attempt to perpetrate:

(i) arson in the first degree;

(ii) burning a barn, stable, tobacco house, warehouse, or other outbuilding that:

1. is not parcel to a dwelling; and

2. contains cattle, goods, wares, merchandise, horses, grain, hay, or tobacco;

(iii) burglary in the first, second, or third degree;

(iv) carjacking or armed carjacking;

(v) escape in the first degree from a State correctional facility or a local correctional facility;

(vi) kidnapping under § 3–502 or § 3–503(a)(2) of this article;

(vii) mayhem;

(viii) rape;

(ix) robbery under § 3–402 or § 3–403 of this article;

(x) sexual offense in the first or second degree;

(xi) sodomy; or

(xii) a violation of § 4–503 of this article concerning destructive devices].

(b) (1) A person who commits a murder in the first degree is guilty of a felony and on conviction shall be sentenced to:

(i) imprisonment for life without the possibility of parole; or

(ii) imprisonment for life.

(2) Unless a sentence of imprisonment for life without the possibility of parole is imposed in compliance with § 2–203 of this subtitle and § 2–304 of this title, the sentence shall be imprisonment for life.

(c) A person who solicits another or conspires with another to commit murder in

the first degree is guilty of murder in the first degree if the death of another occurs as a result of the solicitation or conspiracy.

(D) (1) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A PERSON MAY PETITION THE COURT FOR RESENTENCING IF THE PERSON WAS CONVICTED ON OR BEFORE SEPTEMBER 30, 2020, OF A MURDER IN THE FIRST DEGREE COMMITTED IN THE PERPETUATION OF OR AN ATTEMPT TO PERPETUATE:

(I) ARSON IN THE FIRST DEGREE;

(II) BURNING A BARN, STABLE, TOBACCO HOUSE, WAREHOUSE, OR OTHER OUTBUILDING THAT:

1. IS NOT PARCEL TO A DWELLING; AND

2. CONTAINS CATTLE, GOODS, WARES, MERCHANDISE, HORSES, GRAIN, HAY, OR TOBACCO;

(III) BURGLARY IN THE FIRST, SECOND, OR THIRD DEGREE;

(IV) CARJACKING OR ARMED CARJACKING;

(V) ESCAPE IN THE FIRST DEGREE FROM A STATE CORRECTIONAL FACILITY OR A LOCAL CORRECTIONAL FACILITY;

(VI) KIDNAPPING UNDER § 3-502 OR § 3-503(A)(2) OF THIS ARTICLE;

(VII) MAYHEM;

(VIII) RAPE;

(IX) ROBBERY UNDER § 3-402 OR § 3-403 OF THIS ARTICLE;

(X) SEXUAL OFFENSE IN THE FIRST OR SECOND DEGREE;

(XI) SODOMY; OR

(XII) A VIOLATION OF § 4-503 OF THIS ARTICLE CONCERNING DESTRUCTIVE DEVICES.

(2) WHEN A PERSON FILES A PETITION FOR RESENTENCING UNDER THIS SUBSECTION, THE COURT MAY:

(I) VACATE THE CONVICTION AND SENTENCE FOR MURDER IN THE FIRST DEGREE;

(II) ENTER A CONVICTION FOR MURDER IN THE SECOND DEGREE; AND

(III) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, RESENTENCE THE PETITIONER IN ACCORDANCE WITH § 2–204 OF THIS SUBTITLE.

(3) THE COURT MAY NOT INCREASE THE SENTENCE OF A PETITIONER UNDER THIS SUBSECTION.

2–204.

(a) A murder that is not in the first degree under § 2–201 of this subtitle is in the second degree.

(B) MURDER IN THE SECOND DEGREE INCLUDES A MURDER COMMITTED IN THE PERPETUATION OF OR AN ATTEMPT TO PERPETUATE:

(1) ARSON IN THE FIRST DEGREE;

(2) BURNING A BARN, STABLE, TOBACCO HOUSE, WAREHOUSE, OR OTHER OUTBUILDING THAT:

(I) IS NOT PARCEL TO A DWELLING; AND

(II) CONTAINS CATTLE, GOODS, WARES, MERCHANDISE, HORSES, GRAIN, HAY, OR TOBACCO;

(3) BURGLARY IN THE FIRST, SECOND, OR THIRD DEGREE;

(4) CARJACKING OR ARMED CARJACKING;

(5) ESCAPE IN THE FIRST DEGREE FROM A STATE CORRECTIONAL FACILITY OR A LOCAL CORRECTIONAL FACILITY;

(6) KIDNAPPING UNDER § 3–502 OR § 3–503(A)(2) OF THIS ARTICLE;

(7) MAYHEM;

(8) RAPE;

(9) ROBBERY UNDER § 3–402 OR § 3–403 OF THIS ARTICLE;

1 **(10) SEXUAL OFFENSE IN THE FIRST OR SECOND DEGREE;**

2 **(11) SODOMY; OR**

3 **(12) A VIOLATION OF § 4-503 OF THIS ARTICLE CONCERNING**
4 **DESTRUCTIVE DEVICES.**

5 **[(b)] (C)** A person who commits a murder in the second degree is guilty of a
6 felony and on conviction is subject to imprisonment not exceeding 40 years.

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
8 October 1, 2020.